

Senate Bill No. 966

Passed the Senate September 10, 2007

Secretary of the Senate

Passed the Assembly September 7, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 47200 of, and to add and repeal Article 3.4 (commencing with Section 47120) of Chapter 1 of Part 7 of Division 30 of, the Public Resources Code, relating to pharmaceutical waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 966, Simitian. Pharmaceutical drug waste disposal.

(1) Existing law creates the California Integrated Waste Management Board (board) within the California Environmental Protection Agency.

This bill would, until January 1, 2013, require the board to develop, in consultation with appropriate state, local, and federal agencies, model programs for the collection and proper disposal of pharmaceutical drug waste. The model programs would be required to include, at a minimum, specific actions and informational elements and would be required to be available to eligible participants no sooner than July 1, 2008, but no later than December 1, 2008.

The bill would provide that its provisions shall not apply to a controlled substance, as defined.

(2) Existing law requires the board to expend certain funds, upon appropriation by the Legislature, for the making of grants, as provided, to cities, counties, and other local agencies with responsibilities for solid waste management, and for local programs to prevent the disposal of hazardous wastes at disposal sites, including, but not limited to, initial implementation or expansion of household hazardous waste programs. The total amount of the grants in any one fiscal year may exceed \$3,000,000 but cannot exceed \$5,000,000, if sufficient funds are appropriated from the Integrated Waste Management Account for this purpose.

This bill would increase the limit to \$6,000,000.

The people of the State of California do enact as follows:

SECTION 1. Article 3.4 (commencing with Section 47120) is added to Chapter 1 of Part 7 of Division 30 of the Public Resources Code, to read:

Article 3.4. Drug Waste Management and Disposal

47120. (a) The Legislature finds and declares all of the following:

(1) The United States Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80 percent had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones.

(2) Exposure, even to low levels of drugs, has been shown to have negative effects on fish and other aquatic species and may have negative effects on human health.

(3) In order to reduce the likelihood of improper disposal of drugs, it is the purpose of this article to establish a program through which the public may return and ensure the safe and environmentally sound disposal of drugs and may do so in a way that is convenient for consumers.

(b) It is the intent of the Legislature in enacting this article:

(1) To encourage a cooperative relationship between the board and manufacturers, retailers, and local, state, and federal government agencies in the board's development of model programs to devise a safe, efficient, convenient, cost-effective, sustainable, and environmentally sound solution for the disposal of drugs.

(2) For the programs and systems developed in other local, state, and national jurisdictions to be used as models for the development of pilot programs in California, including, but not limited to, the efforts in Los Angeles, Marin, San Mateo, and Santa Clara Counties, Oregon, Maine, North Carolina, Washington State, British Columbia, and Australia.

(3) To develop a system that recognizes the business practices of manufacturers and retailers and other dispensers and is consistent with and complements their drug management programs.

47121. For the purposes of this article, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) “Consumer” means an individual purchaser or owner of a drug. “Consumer” does not include a business, corporation, limited partnership, or an entity involved in a wholesale transaction between a distributor and retailer.

(b) “Drug” means any of the following:

(1) Articles recognized in the official United States Pharmacopoeia, the official National Formulary, the official Homeopathic Pharmacopoeia of the United States, or any supplement of the formulary or those pharmacopoeias.

(2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(3) Articles, excluding food, intended to affect the structure or function of the body of humans or other animals.

(4) Articles intended for use as a component of an article specified in paragraph (1), (2), or (3).

(c) “Participant” means any entity which the board deems appropriate for implementing and evaluating a model program and which chooses to participate, including, but not limited to, governmental entities, pharmacies, veterinarians, clinics, and other medical settings.

(d) “Sale” includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

47122. (a) (1) The board shall, in consultation with appropriate state, local, and federal agencies, including, but not limited to, the Department of Toxic Substances Control, the State Water Resources Control Board, and the California State Board of Pharmacy, develop model programs for the collection and proper disposal of drug waste. Notwithstanding any other provision of law, the board shall establish, for participants, criteria and procedures for the implementation of the model programs.

(2) In developing model programs the board shall evaluate a variety of models used by other state, local, and other governmental entities, and shall consider a variety of potential participants that may be appropriate for the collection and disposal of drug waste.

(3) No sooner than July 1, 2008, but no later than December 1, 2008, the board shall make the model programs available to eligible participants.

(b) The model programs shall at a minimum include all of the following:

(1) A means by which a participant is required to provide, at no additional cost to the consumer, for the safe take back and proper disposal of the type or brand of drugs that the participant sells or previously sold.

(2) A means by which a participant is required to ensure the protection of public health and safety, the environment, and the health and safety of consumers and employees.

(3) A means by which a participant is required to report to the board for purposes of evaluation of the program for safety, efficiency, effectiveness, and funding sustainability.

(4) A means by which a participant shall protect against the potential for the diversion of drug waste for unlawful use or sale.

(c) The model programs shall provide notice and informational materials for consumers that provide information about the potential impacts of improper disposal of drug waste and the return opportunities for the proper disposal of drug waste. Those materials may include, Internet Web site links, a telephone number placed on an invoice or purchase order, or packaged with a drug; information about the opportunities and locations for no-cost drug disposal; signage that is prominently displayed and easily visible to the consumer; written materials provided to the consumer at the time of purchase or delivery; reference to the drug take back opportunity in advertising or other promotional materials; or direct communications with the consumer at the time of purchase.

(d) Model programs deemed in compliance with this article shall be deemed in compliance with state law and regulation concerning the handling, management, and disposal of drug waste for the purposes of implementing the model program.

(e) (1) The board may develop regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this article, including regulations that the department determines are necessary to implement the provisions of this article in a manner that is enforceable.

(2) The board may adopt regulations to implement this article as emergency regulations. The emergency regulations adopted pursuant to this article shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is hereby deemed an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.

47123. Notwithstanding Section 7550.5 of the Government Code, no later than December 1, 2010, the board shall report to the Legislature. The report shall include an evaluation of the model programs for efficacy, safety, statewide accessibility, and cost effectiveness. The report shall include the consideration of the incidence of diversion of drugs for unlawful sale and use, if any. The report also shall provide recommendations for the potential implementation of a statewide program and statutory changes.

47124. This article shall not apply to a controlled substance, as defined in Section 11007 of the Health and Safety Code.

47125. Nothing in this article shall limit or affect any other right or remedy under any applicable law.

47126. This article shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. Section 47200 of the Public Resources Code is amended to read:

47200. (a) The board shall expend funds from the account, upon appropriation by the Legislature, for the making of grants to cities, counties, or other local agencies with responsibility for solid waste management, and for local programs to help prevent the disposal of hazardous wastes at disposal sites, including, but not limited to, programs to expand or initially implement household hazardous waste programs. In making grants pursuant to this

section, the board shall give priority to funding programs that provide for the following:

(1) New programs for rural areas, underserved areas, and for small cities.

(2) Expansion of existing programs to provide for the collection of additional waste types, innovative or more cost-effective collection methods, or expanded public education services.

(3) Regional household hazardous waste programs.

(b) (1) The total amount of grants made by the board pursuant to this section shall not exceed, in any one fiscal year, three million dollars (\$3,000,000).

(2) Notwithstanding paragraph (1), the total amount of grants made by the board pursuant to this section may exceed three million dollars (\$3,000,000) but shall not exceed six million dollars (\$6,000,000), in any one fiscal year, if sufficient funds are appropriated from the Integrated Waste Management Account for this purpose.

Approved _____, 2007

Governor